

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE: Michael A. Carter

Debtor(s),

Chapter 7

Case No. 16-80485

Judge Thomas M. Lynch

NOTICE OF MOTION

TO: SEE ATTACHED ADDRESSES

PLEASE TAKE NOTICE THAT ON April 6, 2016 at 9:30 AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Thomas M. Lynch, U.S. Bankruptcy Judge, Stanley J. Roszkowski U.S. Courthouse, 327 South Church Street, Room 3100, Rockford, Illinois and shall then and there present the attached Motion, at which time you may appear if you so desire.

CERTIFICATION

I, the undersigned Attorney, Certify that I served a copy of this Notice to the Addresses attached by Electronic Notice through ECF or by depositing the same at the U.S. Mail at 1 North Dearborn, Chicago, Illinois 60602 at 5:00 P.M. on March 25, 2016, with proper postage prepaid.

*THIS DOCUMENT IS AN
ATTEMPT TO COLLECT A DEBT AND
ANY INFORMATION OBTAINED
WILL BE USED FOR THAT PURPOSE*

Pierce & Associates, P.C.
/s/ Toni Townsend
Toni Townsend
ARDC# 6289370
1 N. Dearborn St. Suite 1300
Chicago, IL 60602
(312) 346-9088

File No. 255198-28158

NOTICE OF MOTION ADDRESSES

To Trustee:

Bernard J Natale
Bernard J. Natale, Ltd.
Edgebrook Office Center
1639 N Alpine Rd
Suite 401
Rockford, IL 61107
by Electronic Notice through ECF

To Debtor:

Michael A. Carter
2209 Teton Parkway
Algonquin, IL 60102
by U.S. Mail

To Attorney:

Penelope N Bach
Sulaiman Law Group, Ltd.
900 Jorie Boulevard
Suite 150
Oak Brook, IL
by Electronic Notice through ECF

Pierce & Associates, P.C.
Attorney For: Creditor
1 N. Dearborn St. Suite 1300
Chicago, IL 60602
(312) 346-9088

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UNITED STATES BANKRUPTCY COURT
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MOTION TO MODIFY THE AUTOMATIC STAY

NOW COMES Wells Fargo Bank, NA, by and through its attorneys, Pierce & Associates, P.C., and requests that the Automatic Stay heretofore entered on the property located at 2209 Teton Parkway, Algonquin, IL 60102, be modified, stating as follows:

1. On February 29, 2016, the above captioned Chapter 7 was filed.
2. Wells Fargo Bank, NA services the first mortgage lien on the property located at 2209 Teton Parkway, Algonquin, IL 60102.
3. The debt is based on a November 1, 2010, Mortgage and Note in the original sum of \$167,919.00.
4. As of March 11, 2016 the funds necessary to pay off Wells Fargo Bank, NA on the above captioned account were approximately \$163,890.71. Additional interest advances and charges may have accrued under the security instrument through the presentment of this motion. The debtor's schedules list the fair market value of said property at \$128,996.00. According to the debtor's schedules, there are other liens on the property totaling \$34,277.00.
5. The account is currently due and owing to Wells Fargo Bank, NA for the March 1, 2015 current mortgage payment and those thereafter.
6. The debtor has no equity in the property located at 2209 Teton Parkway, Algonquin, IL 60102, for the benefit of unsecured creditors.

7. Wells Fargo Bank, NA continues to be injured each day it remains bound by the Automatic Stay.
8. Wells Fargo Bank, NA is not adequately protected.
9. Wells Fargo Bank, NA services the underlying mortgage loan and note for the property referenced in this Motion for Relief for Wells Fargo Bank, NA (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtained a discharge and a foreclosure action is commenced or recommended, said foreclosure action will be conducted in the name of Wells Fargo Bank, NA (the noteholder).
10. Debtor executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly endorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.
11. The property located at 2209 Teton Parkway, Algonquin, IL 60102 is not necessary for the debtor's reorganization.
12. No cause exists to delay the enforcement and implementation of relief and Bankruptcy Rule 4001(a)(3) should be waived.

WHEREFORE, YOUR MOVANT PRAYS that the Automatic Stay be modified and that Bankruptcy Rule 4001(a)(3) be waived as not applicable, and such other relief as this Court deems just.

Wells Fargo Bank, NA

/s/ Toni Townsend
Toni Townsend
ARDC# 6289370

Pierce & Associates, P.C.
1 N. Dearborn St. Suite 1300
Chicago, IL 60602
(312) 346-9088

**REQUIRED STATEMENT
TO ACCOMPANY MOTIONS FOR RELIEF FROM STAY**

All Cases: Debtor(s) Michael A. Carter Case No. 16-80485 Chapter 7

All Cases: Moving Creditor Wells Fargo Bank, NA Date Case Filed: February 29, 2016

Nature of Relief Sought: ☒ Lift Stay ☐ Annul Stay ☐ Other (describe) _____

Chapter 13: Date of Confirmation Hearing or Date Plan Confirmed _____

Chapter 7: ☐ No-Asset Report Filed on _____
☒ No-Asset Report not Filed, Date of Creditors Meeting: April 21, 2016

1. Collateral
 - a. ☒ Home
 - b. ☐ Car Year, Make, and Model _____
 - c. ☐ Other (describe) _____
2. Balance Owed as of March 11, 2016: \$163,890.71
Total of all other Liens against Collateral \$34,277.00
3. In chapter 13 cases, if a post-petition default is asserted in the motion, attach a payment history listing the amounts and dates of all payments received from the debtor(s) post-petition.
4. Estimated Value of Collateral (must be supplied in *all* cases) \$128,996.00
5. Default
 - a. ☒ Contractual Default
Number of months 13 Amount \$15,854.76
 - b. ☐ Post-Petition Default
 - i. ☐ On direct payments to the moving creditor
Number of months _____ Amount _____
 - ii. ☐ On payments to the Standing Chapter 13 Trustee
Number of months _____ Amount _____
6. Other Allegations
 - a. ☐ Lack of Adequate Protection § 362(d)(1)
 - i. ☐ No insurance
 - ii. ☐ Taxes unpaid Amount \$ _____
 - iii. ☐ Rapidly depreciating asset
 - iv. ☐ Other (describe) _____
 - b. ☒ No Equity and not Necessary for an Effective Reorganization § 362(d)(2)
 - c. ☒ Other "Cause" § 362(d)(1)
 - i. ☐ Bad Faith (describe) _____
 - ii. ☐ Multiple Filings
 - iii. ☒ Other (describe) Material payment default
 - d. Debtor's Statement of Intention regarding the Collateral
 - i. ☐ Reaffirm
 - ii. ☐ Redeem
 - iii. ☐ Surrender
 - iv. ☐ No Statement of Intention Filed
 - ☒ Retain & Maintain

Date: MARCH 25, 2016

Submitted By: /s/Toni Townsend
Toni Townsend
ARDC#6289370
Pierce & Associates, P.C.

UNITED STATES BANKRUPTCY COURT
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Judge Thomas M. Lynch

ORDER MODIFYING STAY

This cause coming to be heard on the Motion of Wells Fargo Bank, NA, a Creditor herein, the Court having jurisdiction over the parties and the subject matter and being duly advised in the premises, and due Notice having been given to the parties entitled thereto:

IT IS HEREBY ORDERED that the Automatic Stay in the case is modified and leave is hereby granted to Wells Fargo Bank, NA and its successors and assigns to proceed with the foreclosure of the Mortgage on the property located at: 2209 Teton Parkway, Algonquin, IL 60102.

Bankruptcy Rule 4001 (a)(3) is waived and not applicable.

DATED: _____ SIGNED BY: _____
Bankruptcy Judge Thomas M. Lynch

Pierce & Associates, P.C.
Attorneys for Creditor
1 N. Dearborn St. Suite 1300
Chicago, IL 60602
(312) 346-9088

File No: 255198-28158